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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 & CAPITAL PARTNERS, L.P.; DAVID C.)
14 SOWARD, TMP; LEONARD BOSACK;)
15 and SANDY LERNER, aka SANDRA K.)
LERNER,)

16 Plaintiffs,)

17 v.)

18 UNITED STATES OF AMERICA,)
DEPARTMENT OF THE TREASURY, by)
19 its agency, the INTERNAL REVENUE)
SERVICE,)

20 Defendants.)
21

Case No. C-01-4740 MJJ

22 LEONARD BOSACK, and SANDRA K.)
LERNER,)

23 Plaintiffs,)

24 v.)

25 UNITED STATES OF AMERICA,)
26 DEPARTMENT OF THE TREASURY, by)
its agency, the INTERNAL REVENUE)
27 SERVICE,)

28 Defendants.)

Case No. C-03-4579-MJJ

FURTHER JOINT CASE
MANAGEMENT STATEMENT
AND ~~PROPOSED~~ ORDER

Date: November 1, 2005
Time: 2:00 p.m.
Place: Courtroom # 11, 19th Floor

The parties to this consolidated action jointly submit this Further Case Management Statement in anticipation of the November 1, 2005, Case Management Conference, and for the reasons stated below, respectfully request that this Court continue the November 1, 2005 Case Management Conference to February 7, 2006, at 2:00 p.m. via telephone, or such other later date in February 2006 as is convenient for the Court.

1. PROCEEDINGS SINCE MARCH 30, 2004, CASE MANAGEMENT CONFERENCE

Since the March 30, 2004, Case Management Conference, the parties have continued to conduct discovery on the procedural issues involved in this case. Several depositions have already occurred, and additional relevant documents have been exchanged.

2. FURTHER ANTICIPATED PROCEEDINGS

_____ This case involves both procedural issues and issues relating to the substance of the underlying transactions.

There has been significant discovery on the procedural issues and the parties anticipate further discovery which they believe will be completed by January 31, 2006. Once discovery is completed on the procedural issues, the parties anticipate briefing such issues and presenting them to the Court. The remaining discovery will determine whether the parties can present all procedural issues to the Court by cross-motions, or whether one or more of the procedural issues will involve a trial because of disputed facts.

To date, there has been no discovery on the substance of the underlying transactions involved in this case.

The parties request that the Court set a further status conference to occur on February 7, 2006, at 2:00 p.m. by telephone, at which time the parties anticipate that they will be able to realistically set a motions hearing date on the procedural issues.

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Further Joint Case Management Statement and ~~Proposed Order~~
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1 In light of the ongoing discovery regarding the procedural issues, this case is not currently
2 in the posture for assignment to an ADR process, nor is it ripe for trial setting.

3 Respectfully submitted,

4 MARTIN A. SCHAINBAUM
5 A Professional Law Corporation

6 Dated: October 20, 2005

7 By: /s/ Martin Schainbaum
8 Martin A. Schainbaum

9 Attorneys for the Plaintiffs

10 KEVIN V. RYAN
11 United States Attorney

12 Dated: October 20, 2005

13 By: /s/ Cynthia Stier
14 CYNTHIA STIER
15 Assistant U.S. Attorney

16 Attorneys for the United States of America

17 **ORDER**

18 In light of the parties' request, and for good cause shown,

19 **IT IS HEREBY ORDERED** that the Case Management Conference currently scheduled
20 for November 1, 2005, at 2:00 p.m., is continued to February 7, 2006, at ^{1:45}~~2:00~~ p.m. via telephone.

21 **IT IS SO ORDERED.**

22 Dated: 10/21/2005

23 
24 THE HONORABLE MARTIN J. JENKINS
25 United States District Judge

26
27
28 Further Joint Case Management Statement and ~~Proposed Order~~
Further Joint Case Management Statement and ~~Proposed Order~~